IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

MFA.No. 1306 of 2001

AGAINST OPMV.1850/1997 OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR
.....

APPELLANT/PETITIONER:

SURENDRAN, S/O.RAMAKRISHNAN,
ERATTIL HOUSE, PONGANAMKAD,
KURICHIKKARA P.O., THRISSUR.

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS/RESPONDENTS:
---

1. MANIKANDAN, S/O.PADMANABHAN,
VEERAMANGALATH HOUSE,
PONGANAMKAD KURICHIKKARA P.O.,
THRISSUR.

2. JOJU, S/O.BABY,
VADAKKTHALA HOUSE,
PONGANAMKAD.

3. UNITED INDIA INSURANCE CO. LTD.,
PRESIDENT BAZAR, KURUPPAM ROAD,
THRISSUR.

R3 BY ADV. SRI.MATHEWS JACOB

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No.1306 of 2001

Dated this the 10th day of December, 2007.

JUDGMENT

Koshy, J:

Appellant-petitioner met with an accident and suffered serious injury on 26.9.1997 while he was travelling in a scooter. As a result of the accident, his leg below knee was fractured. According to him, he was travelling as a pillion rider while the accident occurred and the accident occurred due to the negligence of the rider of the scooter. The Tribunal, after analysing the evidence, found that he himself was riding the scooter. Yet, compensation under Section 140 of the Motor Vehicles Act was granted. Thus, he was entitled to receive Rs.25,000/- as compensation. There is no evidence to the effect that he lost employment because of the accident or his emoluments were reduced. Learned counsel for the Insurance Company submitted that he was actually riding the vehicle and Tribunal ought not to have awarded even Rs. 25,000/- as accident occurred due to his negligence. As per the recent decision, even if he was a pillion rider, the Insurance Company

has no liability to pay compensation. Considering the facts and circumstances of the case, no interference is required in the award at the instance of the claimant.

Appeal is dismissed.

J.B. KOSHY, JUDGE.

K. HEMA, JUDGE.

Krs.

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No.1306 of 2001

Dated this the 10th day of December, 2007.

JUDGMENT